

- This bill is not active in this session.

A05502 Summary:

BILL NO A05502B

SAME AS SAME AS

SPONSOR Heastie (MS)

COSPNSR Gottfried, Colton, Rosenthal, Miller M, Cymbrowitz, Moya, O'D Thiele, Galef, Castro, DenDekker, Benedetto, Gunther, Schroed Maisel, Spano, Schimel, Lopez V, Weisenberg, Lavine, Weprin, Englebright, Sweeney, Paulin, Dinowitz, Meng, Rodriguez, Hoyt Gabryszak, Titone, Jaffee, Linares, Simotas, Clark, Boyland, Millman

MLTSPNSR Abbate, Abinanti, Boyle, Burling, Calhoun, Castelli, Ceretto, Corwin, Crespo, Crouch, Curran, Duprey, Giglio, Graf, Hayes, Katz, Latimer, Lifton, Lopez P, Losquadro, Malliotakis, Mille Montesano, Murray, Palmesano, Peoples-Stokes, Perry, Ra, Raia P, Roberts, Saladino, Sayward, Smardz, Tobacco

Amd SS3216, 3221 & 4303, Ins L

Prohibits health insurers from requiring the insured purchase prescribed from a mail order pharmacy or pay a co-payment fee when such purchases a made from a mail order pharmacy if a similar fee is not charged for drug a mail order pharmacy.

A05502 Actions:

BILL NO A05502B

02/22/2011 referred to insurance

04/25/2011 amend and recommit to insurance

04/25/2011 print number 5502a

05/17/2011 amend and recommit to insurance

05/17/2011 print number 5502b

05/24/2011 reported

05/26/2011 advanced to third reading cal.462

06/15/2011 passed assembly

06/15/2011 delivered to senate

06/15/2011 REFERRED TO RULES

06/20/2011 SUBSTITUTED FOR S3510B

06/20/2011 3RD READING CAL.1383

06/20/2011 PASSED SENATE

06/20/2011 RETURNED TO ASSEMBLY

11/30/2011 delivered to governor

12/12/2011 signed chap.597

12/12/2011 approval memo.14

A05502 Votes:

A05502B 06/15/2011

143/2

Abbate	Y	Castell	Y	Galef	Y	Katz	Y	McKevit	Y	Rabbitt	Y	Stevens	Y
Abinant	Y	Castro	Y	Gantt	Y	Kavanag	Y	McLaugh	NO	Raia	Y	Sweeney	Y
Amedore	Y	Ceretto	Y	Gibson	Y	Kellner	Y	Meng	Y	Ramos	Y	Tedisco	Y
Arroyo	Y	Clark	Y	Giglio	Y	Kirwan	ER	Mill D	NO	Reilich	Y	Tenney	Y
Aubry	Y	Colton	Y	Glick	Y	Kolb	Y	Mill JM	Y	Reilly	Y	Thiele	Y
Barclay	Y	Conte	Y	Goodell	Y	Lancman	Y	Mill MG	Y	Rive J	Y	Titone	Y
Barron	Y	Cook	Y	Gottfri	Y	Latimer	Y	Millman	Y	Rive N	Y	Titus	Y
Benedet	Y	Corwin	Y	Graf	Y	Lavine	Y	Molinar	Y	Rive PM	Y	Tobacco	Y
Bing	Y	Crespo	Y	Gunther	Y	Lentol	Y	Montesa	Y	Roberts	Y	Weinste	Y
Blanken	Y	Crouch	Y	Hanna	Y	Lifton	Y	Morelle	Y	Robinso	Y	Weisenb	Y
Boyland	Y	Curran	Y	Hawley	Y	Linares	Y	Moya	Y	Rodrigu	Y	Weprin	Y
Boyle	Y	Cusick	Y	Hayes	Y	Lope PD	Y	Murray	Y	Rosenth	Y	Wright	Y
Braunst	Y	Cymbrow	Y	Heastie	Y	Lope VJ	Y	Nolan	Y	Russell	Y	Zebrows	Y
Brennan	Y	DenDekk	Y	Hevesi	Y	Losquad	Y	Oaks	Y	Saladin	Y	Mr Spkr	Y
Bronson	Y	Dinowit	Y	Hikind	Y	Lupardo	Y	O'Donne	Y	Sayward	Y		
Brook K	Y	Duprey	Y	Hooper	Y	Magee	Y	Ortiz	Y	Scarbor	Y		
Burling	Y	Englebr	Y	Hoyt	Y	Magnare	Y	Palmesa	Y	Schimel	Y		
Butler	Y	Farrell	Y	Jacobs	Y	Maisel	Y	Paulin	Y	Schimmi	Y		
Cahill	Y	Finch	Y	Jaffee	Y	Malliot	Y	Peoples	Y	Schroed	Y		
Calhoun	Y	Fitzpat	Y	Jeffrie	Y	Markey	Y	Perry	Y	Simotas	Y		
Camara	Y	Friend	Y	Johns	Y	McDonou	Y	Pretlow	Y	Smardz	Y		
Canestr	Y	Gabrysz	Y	Jordan	Y	McEneny	Y	Ra	Y	Spano	Y		

A05502 Memo:

BILL NUMBER:A5502B

TITLE OF BILL: An act to amend the insurance law, in relation to the purchase of prescription drugs

PURPOSE OR GENERAL IDEA OF BILL: Prohibits health insurance policies from mandating their insured to purchase prescribed drugs from a mail order pharmacy.

SUMMARY OF SPECIFIC PROVISIONS:

* S1.- Subsection (i) of Section 3216 of the insurance law is amended by adding a new paragraph (28) to require any policy which provides coverage for prescription drugs shall allow participants to fill any mail order covered prescription, at his or her option, at any mail order pharmacy or network participating non-mail order retail pharmacy if the network participating non-mail order retail pharmacy offers to accept a price that is comparable to that of the mail order pharmacy. This section goes on to bar the imposition of a co-payment if the insured would not have been charged one at the mail order pharmacy. Also this section states that these changes shall not supersede the terms of a collective bargaining agreement entered into between an

employer and a certified employee organization. Additionally, this shall not alter any provisions in sections thirteen and thirteen-a of the workers' compensation law regarding the purchase of prescription drugs and the use of mail order pharmacy.

* SS2-3.- A new paragraph (18) is also added to subsection (1) of Section 3221 of such law and a new Subsection (hh) is likewise added to section 4303 to impose such a prohibition on all policies of health insurance in the state including those issued by health services or medical expense indemnity corporations issuing group contracts.

* S4.- This section adds a severance clause to the legislation.

JUSTIFICATION: This legislation will provide freedom of choice to consumers who have coverage for prescribed drugs as part of their health insurance. When a policy mandates purchase from a specific mail order pharmacy the consumer is forced to purchase an interim supply of the prescribed drug from his or her neighborhood pharmacist who is familiar with his or her medical history. The risk to the consumer in this situation is obvious.

Furthermore, the neighborhood pharmacy in these situations is forced to bear the burden of educating the patient as to the use and potential effects of the prescribed drug. The inability of the consumer to purchase the full prescription from the neighborhood pharmacy imposes this burden inequitably, thereby providing the mail order house with an economic advantage that the local provider cannot over come.

Finally, many consumers, especially senior citizens, rely on their local pharmacist for the service that they provide with respect to monitoring the regimen of drugs that they take. A mandate of purchase by mail denies them of this important service and confidence.

PRIOR LEGISLATIVE HISTORY:

2010 - A.1267A
2008 - A.2808/Insurance; S.8775/Rules
2007 - A.2808/Insurance; S.8775/Rules
2006 - A.6934/Insurance
2005 - A.6934/Insurance

FISCAL IMPLICATIONS: None

EFFECTIVE DATE: This act shall take effect on the thirtieth day after it shall have become law and shall apply to all policies and contracts issued, renewed, modified, altered or amended on or after such effective date.

A05502 Text:

S T A T E O F N E W Y O R K

5502--B

2011-2012 Regular Sessions

I N A S S E M B L Y

February 22, 2011

Introduced by M. of A. HEASTIE, GOTTFRIED, COLTON, ROSENTHAL, M. CYMBROWITZ, MOYA, O'DONNELL, THIELE, GALEF, CASTRO, DenDEKKER DETTO, GUNTHER, SCHROEDER, MAISEL, SPANO, SCHIMEL, V. LOPEZ, BERG, LAVINE, WEPRIN, ENGLEBRIGHT, SWEENEY, PAULIN, DINOWITZ RODRIGUEZ, HOYT, GABRYSZAK, TITONE -- Multi-Sponsored by -- M. ABBATE, ABINANTI, BOYLE, BURLING, CASTELLI, CERETTO, CORWIN, CROUCH, DUPREY, GIGLIO, GRAF, HAYES, JACOBS, KATZ, LATIMER, P. LOSQUADRO, MALLIOTAKIS, J. MILLER, MONTESANO, MURRAY, PAL PEOPLES-STOKES, RA, RAIA, P. RIVERA, ROBERTS, SALADINO, S SMARDZ -- read once and referred to the Committee on Insurance committee discharged, bill amended, ordered reprinted as amended recommitted to said committee -- again reported from said committee with amendments, ordered reprinted as amended and recommitted to committee

AN ACT to amend the insurance law, in relation to the purchase of prescription drugs

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Subsection (i) of section 3216 of the insurance
2 amended by adding a new paragraph 28 to read as follows:
3 (28) ANY POLICY WHICH PROVIDES COVERAGE FOR PRESCRIPTION DRUGS
4 PERMIT EACH PARTICIPANT TO FILL ANY MAIL ORDER COVERED PRESCRIPTION
5 HIS OR HER OPTION, AT ANY MAIL ORDER PHARMACY OR NETWORK PARTICIPATING
6 NON-MAIL ORDER RETAIL PHARMACY IF THE NETWORK PARTICIPATING NON-MAIL
7 ORDER RETAIL PHARMACY OFFERS TO ACCEPT A PRICE THAT IS COMPARABLE
8 THAT OF THE MAIL ORDER PHARMACY. ANY POLICY WHICH PROVIDES COVERAGE
9 PRESCRIPTION DRUGS SHALL NOT IMPOSE A CO-PAYMENT FEE OR OTHER CHARGE
10 ON ANY INSURED WHO ELECTS TO PURCHASE DRUGS FROM A NETWORK PARTICIPATING
11 NON-MAIL ORDER RETAIL PHARMACY WHICH IS NOT ALSO IMPOSED ON INDIVIDUALS
12 ELECTING TO PURCHASE DRUGS FROM A DESIGNATED MAIL ORDER PHARMACY
13 PROVIDED, HOWEVER, THAT THE PROVISIONS OF THIS SECTION SHALL NOT

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [] is old law to be omitted.

LBD091

A. 5502--B

2

1 SEDE THE TERMS OF A COLLECTIVE BARGAINING AGREEMENT OR APPLY TO A
2 THAT IS THE RESULT OF A COLLECTIVE BARGAINING AGREEMENT BETW
3 EMPLOYER AND A RECOGNIZED OR CERTIFIED EMPLOYEE ORGANIZATION.

4 S 2. Subsection (1) of section 3221 of the insurance law is ame
5 adding a new paragraph 18 to read as follows:

6 (18) ANY INSURER DELIVERING A GROUP OR BLANKET POLICY OR IS
7 GROUP OR BLANKET POLICY FOR DELIVERY IN THIS STATE WHICH PROVIDES
8 AGE FOR PRESCRIPTION DRUGS SHALL PERMIT EACH PARTICIPANT TO FI
9 MAIL ORDER COVERED PRESCRIPTION, AT HIS OR HER OPTION, AT ANY MAI
10 PHARMACY OR NETWORK PARTICIPATING NON-MAIL ORDER RETAIL PHARMACY
11 NETWORK PARTICIPATING NON-MAIL ORDER RETAIL PHARMACY OFFERS TO AC
12 PRICE THAT IS COMPARABLE TO THAT OF THE MAIL ORDER PHARMACY. ANY
13 WHICH PROVIDES COVERAGE FOR PRESCRIPTION DRUGS SHALL NOT IM
14 CO-PAYMENT FEE OR OTHER CONDITION ON ANY INSURED WHO ELECTS TO P
15 DRUGS FROM A NETWORK PARTICIPATING NON-MAIL ORDER RETAIL PHARMACY
16 IS NOT ALSO IMPOSED ON INSUREDS ELECTING TO PURCHASE DRUGS FROM A
17 NATED MAIL ORDER PHARMACY; PROVIDED, HOWEVER, THAT THE PROVIS
18 THIS SECTION SHALL NOT SUPERSEDE THE TERMS OF A COLLECTIVE BAR
19 AGREEMENT OR APPLY TO A POLICY THAT IS THE RESULT OF A COL
20 BARGAINING AGREEMENT BETWEEN AN EMPLOYER AND A RECOGNIZED OR CE
21 EMPLOYEE ORGANIZATION.

22 S 3. Section 4303 of the insurance law is amended by addin
23 subsection (hh) to read as follows:

24 (HH) ANY POLICY ISSUED BY A MEDICAL EXPENSE INDEMNITY CORPORAT
25 HOSPITAL SERVICE CORPORATION OR A HEALTH SERVICES CORPORATIO
26 PROVIDES COVERAGE FOR PRESCRIPTION DRUGS SHALL PERMIT EACH PART
27 TO FILL ANY MAIL ORDER COVERED PRESCRIPTION, AT HIS OR HER OPT
28 ANY MAIL ORDER PHARMACY OR NETWORK PARTICIPATING NON-MAIL ORDER
29 PHARMACY IF THE NETWORK PARTICIPATING NON-MAIL ORDER RETAIL P
30 OFFERS TO ACCEPT A PRICE THAT IS COMPARABLE TO THAT OF THE MAIL
31 PHARMACY. ANY POLICY WHICH PROVIDES COVERAGE FOR PRESCRIPTIO
32 SHALL NOT IMPOSE A COPAYMENT FEE OR OTHER CONDITION ON ANY INSUR
33 ELECTS TO PURCHASE DRUGS FROM A NETWORK PARTICIPATING NON-MAI
34 RETAIL PHARMACY WHICH IS NOT ALSO IMPOSED ON INSUREDS ELECT
35 PURCHASE DRUGS FROM A DESIGNATED MAIL ORDER PHARMACY; PROVIDED, H
36 THAT THE PROVISIONS OF THIS SECTION SHALL NOT SUPERSEDE THE TER
37 COLLECTIVE BARGAINING AGREEMENT OR APPLY TO A POLICY THAT IS THE
38 OF A COLLECTIVE BARGAINING AGREEMENT BETWEEN AN EMPLOYER AND A
39 NIZED OR CERTIFIED EMPLOYEE ORGANIZATION.

40 S 4. If any clause, subparagraph, subsection, section or othe
41 of this act, or the application thereof be held to be invali
42 holding shall not affect, impair or invalidate the remainder o
43 act, or the application of such section or part of a section held
44 id.

45 S 5. This act shall take effect on the thirtieth day after i
46 have become a law and shall apply to all policies and contracts
47 renewed, modified, altered or amended on or after such effective

CHAPTER

597

LAWS OF 20 _____

SENATE BILL _____

ASSEMBLY BILL 5502-B

STATE OF NEW YORK

5502--B

2011-2012 Regular Sessions

IN ASSEMBLY

February 22, 2011

Introduced by M. of A. HEASTIE, GOTTFRIED, COLTON, ROSENTHAL, M. MILLER, CYMBROWITZ, MOYA, O'DONNELL, THIELE, GALEF, CASTRO, DenDEKKER, BENEDETTO, GUNTHER, SCHROEDER, MAISEL, SPANO, SCHIMEL, V. LOPEZ, WEISENBERG, LAVINE, WEPRIN, ENGLEBRIGHT, SWEENEY, PAULIN, DINOWITZ, MENG, RODRIGUEZ, HOYT, GABRYSZAK, TITONE -- Multi-Sponsored by -- M. of A. ABBATE, ABINANTI, BOYLE, BURLING, CASTELLI, CERETTO, CORWIN, CRESPO, CROUCH, DUPREY, GIGLIO, GRAF, HAYES, JACOBS, KATZ, LATIMER, P. LOPEZ, LOSQUADRO, MALLIOTAKIS, J. MILLER, MONTESANO, MURRAY, PALMESANO, PEOPLES-STOKES, RA, RAIA, P. RIVERA, ROBERTS, SALADINO, SAYWARD, SMARDZ -- read once and referred to the Committee on Insurance -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- again reported from said committee with amendments, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the insurance law, in relation to the purchase of prescription drugs

S3510-B/maziarz

DATE RECEIVED BY GOVERNOR:

11/30/11

ACTION MUST BE TAKEN BY:

12/12/11

DATE GOVERNOR'S ACTION TAKEN:

12/12/11

0000001

SENATE VOTE 60 Y 2 N

HOME RULE MESSAGE ____ Y ____ N

DATE 6/20/11

ASSEMBLY VOTE 143 Y 2 N

DATE 6/15/11

000002

A5502-B Heastie (MS) Same as S 3510-B MAZIARZ

<u>06/20/11</u>	A5502-B	Senate Vote	Aye: 60	Nay: 2
<u>06/15/11</u>	A5502-B	Assembly Vote	Yes: 143	No : 2

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Floor Votes:

06/20/11 A5502-B Senate Vote Aye: 60 Nay: 2

Aye Adams	Aye Addabbo	Aye Alesi	Aye Avella
Aye Ball	Aye Bonacic	Aye Breslin	Aye Carlucci
Aye DeFrancisco	Aye Diaz	Aye Dilan	Aye Duane
Aye Espaillat	Aye Farley	Aye Flanagan	Aye Fuschillo
Aye Gallivan	Aye Gianaris	Aye Golden	Aye Griffo
Aye Grisanti	Aye Hannon	Aye Hassell-Thompson	Aye Huntley
Aye Johnson	Aye Kennedy	Aye Klein	Aye Krueger
Aye Kruger	Aye Lanza	Aye Larkin	Aye LaValle
Aye Libous	Aye Little	Aye Marcellino	Aye Martins
Aye Mazarz	Nay McDonald	Aye Montgomery	Aye Nozzolio
Aye O'Mara	Aye Oppenheimer	Aye Parker	Aye Peralta
Aye Perkins	Aye Ranzenhofer	Aye Ritchie	Aye Rivera
Aye Robach	Aye Saland	Aye Sampson	Aye Savino
Aye Serrano	Nay Seward	Aye Skelos	Aye Smith
Aye Squadron	Aye Stavisky	Aye Stewart-Cousins	Aye Valesky
Aye Young	Aye Zeldin		

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Floor Votes:

06/15/11 A5502-B Assembly Vote Yes: 143 No : 2

Yes Abbate	Yes Abinanti	Yes Amedore	Yes Arroyo
Yes Aubry	Yes Barclay	Yes Barron	Yes Benedetto
Yes Bing	Yes Blankenbush	Yes Boyland	Yes Boyle
Yes Braunstein	Yes Brennan	Yes Bronson	Yes Brook-Krasny
Yes Burling	Yes Butler	Yes Cahill	Yes Calhoun
Yes Camara	Yes Canestrari	Yes Castelli	Yes Castro
Yes Ceretto	Yes Clark	Yes Colton	Yes Conte
Yes Cook	Yes Corwin	Yes Crespo	Yes Crouch
Yes Curran	Yes Cusick	Yes Cymbrowitz	Yes DenDekker
Yes Dinowitz	Yes Duprey	Yes Englebright	Yes Farrell
Yes Finch	Yes Fitzpatrick	Yes Friend	Yes Gabryszak
Yes Galef	Yes Gantt	Yes Gibson	Yes Giglio

Yes Glick	Yes Goodell	Yes Gottfried	Yes Graf
Yes Gunther A	Yes Hanna	Yes Hawley	Yes Hayes
Yes Heastie	Yes Hevesi	Yes Hikind	Yes Hooper
Yes Hoyt	Yes Jacobs	Yes Jaffee	Yes Jeffries
Yes Johns	Yes Jordan	Yes Katz	Yes Kavanagh
Yes Kellner	ER Kirwan	Yes Kolb	Yes Lancman
Yes Latimer	Yes Lavine	Yes Lentol	Yes Lifton
Yes Linares	Yes Lopez P	Yes Lopez V	Yes Losquadro
Yes Lupardo	Yes Magee	Yes Magnarelli	Yes Maisel
Yes Malliotakis	Yes Markey	Yes McDonough	Yes McEneny
Yes McKevitt	No McLaughlin	Yes Meng	No Miller D
Yes Miller J	Yes Miller M	Yes Millman	Yes Molinaro
Yes Montesano	Yes Morelle	Yes Moya	Yes Murray
Yes Nolan	Yes Oaks	Yes O'Donnell	Yes Ortiz
Yes Palmesano	Yes Paulin	Yes Peoples-Stokes	Yes Perry
Yes Pretlow	Yes Ra	Yes Rabbitt	Yes Raia
Yes Ramos	Yes Reilich	Yes Reilly	Yes Rivera J
Yes Rivera N	Yes Rivera P	Yes Roberts	Yes Robinson
Yes Rodriguez	Yes Rosenthal	Yes Russell	Yes Saladino
Yes Sayward	Yes Scarborough	Yes Schimel	Yes Schimminger
Yes Schroeder	Yes Simotas	Yes Smardz	Yes Spano
Yes Stevenson	Yes Sweeney	Yes Tedisco	Yes Tenney
Yes Thiele	Yes Titone	Yes Titus	Yes Tobacco
Yes Weinstein	Yes Weisenberg	Yes Weprin	Yes Wright
Yes Zebrowski K	Yes Mr. Speaker		



STATE OF NEW YORK
EXECUTIVE CHAMBER
ALBANY 12224

APPROVAL # 14
CHAPTER # 597

MEMORANDUM filed with Assembly Bill Number 5502-B, entitled:

DEC 12 2011

"AN ACT to amend the insurance law, in relation to the purchase of prescription drugs"; and

MEMORANDUM filed with Assembly Bill Number 7779, entitled:

"AN ACT to amend the insurance law, in relation to the purchase of prescription drugs"

APPROVED

Both of these bills seek to improve consumer convenience by expanding the options by which consumers can fill their drug prescriptions. The first, Assembly Bill 5502-B, would require certain insurers that provide coverage for prescription drugs when dispensed by a mail order pharmacy to also permit an insured, at his or her option, to fill a prescription at a network participating non-mail order retail pharmacy ("retail pharmacy") without imposing additional co-payment, fees or other conditions on the insured, provided that the retail pharmacy offers to accept a price that is comparable to that of the mail order pharmacy. The second bill, Assembly Bill 7779, would similarly allow an insured to purchase fertility drugs at a local specialty pharmacy without incurring any additional financial burdens by virtue of not using a mail order pharmacy.

While I support their objectives, I have concerns with these bills. To address these concerns, both houses of the Legislature have agreed to pass amending legislation making several changes, including providing that the retail pharmacy must agree in advance to accept the same reimbursement rate and applicable terms and conditions established for mail order pharmacies. With the understanding that these amendments will be passed, I approve these bills.

These bills are approved.

A handwritten signature in black ink, appearing to read "Andrew Cuomo".

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